

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:15-CV-153-RJC-DCK**

TAMARA MUSENGE,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
SMARTWAY OF THE CAROLINAS, LLC,)	
d/b/a SMARTWHEELS,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Motion To Vacate Entry Of Default” (Document No. 10) filed October 1, 2015. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, the undersigned will grant the motion.

Plaintiff’s “First Amended Complaint” (Document No. 4) was filed on April 10, 2015. Plaintiff then filed a “...Motion To Extend Deadline To Make Service Of Process On Defendant” (Document No. 5) on July 15, 2015, which was immediately granted by the Court. (Document No. 6). Plaintiff was allowed up to and including September 25, 2015 to complete service on Defendant. *Id.*

On September 17, 2015, following alleged Service of Process by Publication on August 7, 2015, Plaintiff filed a “Request For Entry Of Default...” Document No. 8). The next day, September 18, 2015, the Clerk Of Court issued an “Entry Of Default” (Document No. 9) against Defendant SmartWay of the Carolinas, LLC.

By the instant motion, Plaintiff now requests that the Court vacate its “Entry Of Default.” (Document No. 10). Plaintiff asserts that since the entry of default it has corresponded with Defendant, and that Plaintiff intends to serve Defendant’s counsel with a Waiver of Service of Summons. *Id.* Plaintiff further asserts that Defendant intends to file a formal Answer with the Court pursuant to its execution of the Waiver of Service. *Id.*

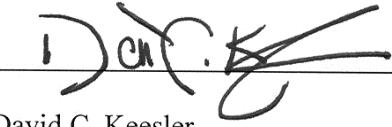
Based on the foregoing, the undersigned finds good cause to grant the pending motion.

IT IS, THEREFORE, ORDERED that “Plaintiff’s Motion To Vacate Entry Of Default” (Document No. 10) is **GRANTED**. Defendant shall file an Answer to Plaintiff’s “First Amended Complaint” (Document No. 4) on or before **October 30, 2015**.

The Clerk of Court is directed to send a copy of this Order to Defendant’s Registered Agent, as listed on the Certificate of Service (Document No. 10, p.3), by U.S. mail.

SO ORDERED.

Signed: October 1, 2015



David C. Keesler
United States Magistrate Judge
